THE NEW YORK HERALD.

WHOLE NO. 10,802. NEW YORK, WEDNESDAY, MARCH 28, 1866.—WITH SUPPLEMENT. PRICE FOUR CENTS.

THE CAPITAL.

IMPORTANT PROCEEDINGS OF CONGRESS.

VETO MESSAGE.

The Civil Rights Bill Returned to Congress.

The President's Objections to the Bill.

It is Unconstitutional, Anomalous and Unnecessary.

It Creates a Distinction of Color in Favor of the Black Man and Tends to Resuscitate Rebellion.

No Vote Taken by the Senate on the Message.

The Radicals Sanguine of Passing the Bill Over the Veto.

A VOTE EXPECTED TO BE TAKEN TO-DAY.

Senator Stockton's Case Disposed of.

He is Declared Excluded from a Seat in the Senate.

Ineffectual Attempt to Reconsider the Vote.

&c. &c. &c.

WASHINGTON, March 27, 1866.

VETO OF THE CIVIL RIGHTS BILL.—THE CASE OF SENATOR STOCKTON.

This has been one of the most exciting days yet experienced during the present session of the Senate. The interest manifested in the Stockton case and the anticipation of the President's veto of the Civil Rights bill attracted a crowded attendance, not only in the galleries, but also a large representation of distinguished gentlemen on the floor. As early as half-past eleven o'clock fully one-half of the seats in the galleries were already filled, and by the time the Senate was called to order there was little room left for the large numbers continuing to arrive. By one o'clock several of the doors in the galleries were closed and the admission of visitors shut off.

During the morning hour a bill was introduced by Senator Doolittle, which, it is said, covers the whole ground taken by the President on the important questions now agitating the country. Senator Stewart also brought in a bill as a substitute to the one he introduced some days ago.

At one o'clock the Stockton case came up, and a great effort was made by the gentleman's friends to effect a postponement. During this controversy, at a quarter past one, a message from the President of the United States was announced. This information prompted a general leaning forward in the galleries, and a sudden stillness pervaded the whole chamber. Every one listened with the utmost eagerness to catch the words of the bearer of the message. Colonel Moore, Private Secretary to Mr. Johnson, in a loud voice, announced to the Senate that the President of the United States returned the bill protecting citizens in their civil rights with his objections thereto in writing. As might be expected—the impression having been previously formed in the public mind that the bill would be vetoed—nobody appeared much surprised, though there was apparently an ardent curiosity to hear the objections. The curious, however, were doomed to a serious delay. No sooner was the message received by the Speaker than the conflict on the postponement of the Stockton case was resumed, and when pushed to a vote was lost. Mr. Stockton himself now took the floor and consumed two hours and a half in reading his argument in vindication of his claims to his seat. During this speech the arrival of the veto came to the ears of the members of the House of Representatives and attracted a large attendance upon the floor of the Senate. After waiting about an hour a member came in, privately announcing some unlooked-for operations in the other end of the building, when a general stampede of members took place to look after their own interests. When Mr. Stockton took his seat a cross-fire of amendments and motions to postpone came up and were fiercely contested, resulting in the passage of the amendment excluding Mr. Stockton, owing to the dodging of Mr. Stewart. It was now five o'clock, and still further efforts were made to renew the discussion, but without avail. Several members here moved to adjourn, but the will of the Senate was to the contrary.

The reading of the President's objections to the Civil Rights bill was now in order, and the Message was listened to with evident interest. After the conclusion of the reading, the radicals were for pushing a vote on the question of passing the bill over the veto, and for a time affairs looked stormy; but the elements of opposition were soon dispelled when it was understood that Senators Grimes and Kirkwood, overcome by the irresistible attacks of the inner man, had gone off to dinner. The further consideration of the question was therefore postponed until to-morrow.

After the adjournment of the House of Representatives a large number of members again made their appearance. Among these we noticed Messrs. Washburne, Thad. Stevens, Roscoe Conkling, Stilwell, Bingham and Eggleston. Generals "Baldy" Smith and Grierson, Hon. L. D. Campbell, Mr. Romero, Mexican Minister; Colonel Rasaloff, Danish Minister; Sir Frederick Bruce, English Minister; Freeman Clark, Judge Swayne of the United States Supreme Court, and Major Morrow were also present.

The radicals are exceedingly sanguine of being able to pass the Civil Rights bill over the veto. They claim that they could have accomplished that result to-night if Senators Grimes and Kirkwood had not left the Senate. Their absenting themselves was the cause of the adjournment. They claim to have made converts of both Senator Stewart and Senator Willey of West Virginia. If, however, it is found to-morrow that they have not votes enough to override the veto, the question will be postponed until New Jersey elects a Senator and Vermont also sends one in the place of Foot, who can hardly live to-night out. It is also claimed that Colorado will be admitted on a pledge of the Senators to go against the President. Thus it will be seen that they are determined not to miss this time, but to make the breach between them and the President complete. There is little doubt but that they will be able to carry their point, especially in the absence of both Dixon and Wright from sickness. Stewart is sure to vote with the radicals; but Willey is claimed by both sides, as is also Lane, of Kansas. The chances are exceedingly thin for sustaining the veto in the Senate. Senators Wilson and Trumbull are sanguine of success. The former declares that hereafter a two-thirds vote in the Senate is sure against the President on all questions. He openly asserts that they will make war against the President now, and that they have finally reached a point that he has claimed for the last six months they must come to. The friends of the President seem to apprehend no fears of the result of the vote, but they evidently do not understand the work that has been done by the radicals to win over those republicans who voted to sustain the former veto. While they have been active the President has retained their allies in his Cabinet and other offices, and has done nothing to strengthen the hands of those who stood by him on the Freedmen's Bureau veto. This has disheartened some of his former supporters and given the radicals the very weapons which have enabled them to influence the votes of some of the wavering Senators. This shows the folly of retaining opponents to his policy in his Cabinet. It is reported that four members of the Cabinet are against the veto—Secretaries Denison, Stanton, Harlan and Speed—and that Seward, McCullough and Welles approve it.

Senator Sumner was rushing around the city excitedly this evening, and made himself well nigh ubiquitous. Within an hour or so he was at Senator Morgan's, the uptown hotels and the National Hotel, besides being passed and repassed several times on Pennsylvania avenue. To avoid the White House appeared to be his first desire, and rapid locomotion the second. Canvassing for to-morrow's vote was the reason generally assigned for his unwonted haste.

CONDITION OF SENATOR FOOT.

At eleven o'clock to-night Senator Foot was still living, but not expected to survive the night. Should he die before noon to-morrow no vote will be had upon the President's veto message for two or three days, and possibly not for a week.

THE TAX ON WOOL.

R. M. Montgomery, President of the Ohio Wool Growers' Association; Henry S. Randall, President of the National Wool Growers' Association, and Edwin Hammond, the merino king of Vermont, are in Washington, having been summoned to appear before the Committee on Ways and Means to give their views in the matters of tax and tariff on wool.

THE BANKRUPT BILL IN THE HOUSE.

The greater part of the day was spent in the House in discussion of the Bankrupt bill, reported some time ago by Mr. Jenckes, of Rhode Island, from the Select Committee on the Bankrupt Law. The absorbing interest of the proceedings in the Senate wing of the Capitol left barely a quorum in the House, with a very spare collection of admirers in the galleries, Mr. Jenckes struggling along with his bill, defeating two or three motions to adjourn, till about four o'clock, when he succeeded in getting the previous question ordered, so the vote will come to-morrow. The bill has been picked to pieces so that Mr. Jenckes himself hardly recognized it, and there is very little probability that it will pass.

POSTPONEMENT OF THE MASS MEETING OF NATIONAL UNIONISTS.

The mass meeting of National Unionists, called for to-morrow evening in this city, has been postponed until next week.

NAVY YARD AT LEAGUE ISLAND.

The House Naval Committee has decided to report in favor of League Island, at Philadelphia, as a site for the new navy yard for iron clads.

DECISION OF COMMISSIONER ROLLINS.

The following interesting decision of the Commissioner of Internal Revenue has just been made public:—

OFFICE OF INTERNAL REVENUE, WASHINGTON, March 23, 1866.

SIR—Yours of the 19th inst. is received. You inquire if the fixed salary of an agent necessarily employed to take charge of real estate is a proper deduction from the rents and profits thereof, and exempt from income tax. I reply that under the terms of section 117 the salary of a person employed to take care of real estate would be deductible from such income of the person paying such salary as is derived from the estate in question. The person receiving the salary would, of course, return the same as part of his income, subject to tax. Very respectfully, E. A. ROLLINS, Commissioner.

A. W. NICOLL, 37 Wall street, New York.

THIRTY-NINTH CONGRESS.

First Session.

SENATE.

WASHINGTON, March 27, 1866.

COAST SURVEY.

The Coast Survey report for the year ending November, 1865, was laid before the Senate, and on Motion of Mr. Sherman was referred to the Committee on Printing.

SOLDIERS' HOME IN INDIANA.

Mr. LANE, (rep.) of Ind., presented the petition of Acting Governor Baker, of Indiana, asking for an appropriation for the erection of a Soldiers' Home. This was referred to the Committee on Military Affairs.

PROTEST AGAINST APPROPRIATIONS FOR SHIP CANALS.

Mr. SHERMAN, (rep.) of Ohio, presented a protest against the appropriation of money to build a ship canal, or for any other works of that character at the present time, which was referred to the Committee on Commerce.

INDIANA BREWERS AND THE EXCISE TAX.

Mr. HENDRICKS, (dem.) of Ind., presented the petition of the brewers of Indiana for relief from the Excise tax laws.

PETITION FOR A PROVISIONAL GOVERNMENT FOR LOUISIANA.

Mr. SUMNER, (rep.) of Mass., presented nineteen petitions from citizens of Louisiana, asking for a provisional government in that State, and the enforcement of equality, civil and political, without distinction on account of color. These were referred to the Committee on Reconstruction.

THE TAX ON BARLEY.

Mr. CHANDLER, (rep.) of Mich., presented the petition of citizens of Michigan for a reduction of the tax on barley, which was referred to the Committee on Finance.

PETITION FOR A TERRITORIAL GOVERNMENT FOR VIRGINIA.

Mr. HOWARD, (rep.) of Mich., presented the petition of citizens of Fairfax county, Virginia, for the establishment of a Territorial government over that State, which was referred to the Committee on Reconstruction.

THE ARMY APPROPRIATION AND POST OFFICE BILLS.

Mr. FESSENDEN, (rep.) of Me., reported from the Finance Committee the Army Appropriation bill, with amendments, which was ordered to be printed; also the bill making an appropriation for the Post Office Department, which was ordered to be printed.

AID FOR AMERICAN STEAMSHIPS.

Mr. DOOLITTLE, (rep.) of Wis., presented the petition of the Lloyd Steamship Company, stating that the mails between this country and Europe are carried by European steamships, and asking such aid as will enable American vessels to perform the work. This was referred to the Committee on Post Offices and Post Roads.

IMPROVEMENT OF THE MISSISSIPPI RIVER.

Mr. RAMSAY, (rep.) of Min., presented the memorial of the Minnesota Legislature for the improvement of the Mississippi river, which was referred to the Committee on Commerce.

FEMALE SUFFRAGE.

Mr. HARRIS, (rep.) of N. Y., presented a petition, signed by a large number of women, asking for an amendment to the constitution prohibiting any State from disfranchising its citizens on account of sex.

Mr. FOSTER (in the chair)—What disposition does the Senator wish to be made of this petition.

Mr. HARRIS—Let it lie on the table.

The CHAIR—It will be so ordered.

THE TAX ON PETROLEUM.

Mr. COWAN, (rep.) of Pa., presented the joint resolution of the Pennsylvania Legislature for a modification of the tax on petroleum, which was referred to the Committee on Finance.

THE TAX ON DEPOSITS IN SAVINGS BANKS.

Mr. JOHNSON, (dem.) of Md., presented a petition asking that the present tax on deposits in savings banks be removed, which was referred to the Committee on Finance.

PROPOSITION TO TRANSFER A GUNBOAT TO LIBERIA.

Mr. SUMNER, from the Committee on Foreign Relations, reported a bill to authorize the President of the United States to transfer a gunboat to the government of the republic of Liberia, which was ordered to be printed.

REIMBURSEMENT OF WEST VIRGINIA.

Mr. NESMITH, (dem.) of Oregon, from the Military Committee, reported a bill to reimburse the State of West Virginia for calling out, equipping and paying militia in the late war.

SURVEY OF WISCONSIN RIVER.

Mr. DOOLITTLE introduced a joint resolution to provide for a survey for a route for steam vessels through the Wisconsin river, from the Mississippi to Green Bay.

FORT LEAVENWORTH RESERVATION.

Mr. LANE, (rep.) of Kansas, introduced a bill to authorize the sale of a portion of the Fort Leavenworth reservation to the city of Leavenworth for a public park, which was referred to the Military Committee.

SMITHSONIAN LIBRARY.

Mr. HOWE, (rep.) of Wis., called up the bill to provide for the transfer of the library of the Smithsonian Institute to the library of Congress.

APPOINTMENTS TO THE NAVAL ACADEMY.

Mr. GRIMES, (rep.) of Iowa, introduced a bill relative to the appointment of enlisted persons at the Naval Academy, which was referred to the Naval Committee. It fixes the number of students at two for each Congressional district, two for each Territory represented in Congress, two from the District of Columbia and ten to be selected yearly from the sons of officers or men who have been in the naval, military or marine service. They must be examined, and be between fourteen and seventeen years of age. The President is empowered to designate the two in the District of Columbia and the ten at large. The others are selected by members of Congress. The selections before March 4, 1868, shall be made from boys who have served one year, and after that date from boys who have served two years as naval apprentices, and each member must select not less than three boys yearly, and each Senator not less than two, to be enlisted as such apprentices. Before examination the boys shall be styled naval cadets, afterwards midshipmen. Naval cadets deficient at examination shall not be continued at examination, nor reappointed the same year. The appointments for 1866 are to be made according to the laws in force.

ENFORCEMENT OF THE ANTI-SLAVERY CONSTITUTIONAL AMENDMENT.

Mr. DOOLITTLE introduced a bill to provide appropriate legislation to enforce article thirteen of the amendments of the constitution abolishing slavery in the States, which was referred to the Committee of the Judiciary. The bill will be found in full in the Herald Supplement sheet.—ED. HERALD.]

SUBSTITUTE FOR MR. STEWART'S JOINT RESOLUTION IN RELATION TO RECONSTRUCTION.

Mr. STEWART, (rep.) of Nevada, submitted a substitute for his recent joint resolution, which provides that no discrimination in civil rights and liabilities, nor in the exercise of the elective franchise, shall exist among the population of the United States (Indians not taxed excepted) on account of race or color or previous condition of servitude. But in case of restrictive qualifications by the States this provision shall not work disfranchisement of any persons now entitled to vote; that obligations and liabilities incurred in aid of insurrection and rebellion, and claims for compensation on account of emancipation of slaves are not valid and shall not be assumed or paid by any State of the United States; that whenever any one of the eleven States whose inhabitants were lately in insurrection, through its Legislature, having been first authorized to do so by a majority of its present voting population, including all who would be qualified to vote under the laws thereof as they existed in 1860, shall have ratified the foregoing amendment of the constitution of the United States and the laws in conformity therewith, then and in that case such State shall be recognized, and its representatives admitted into Congress; and a general amnesty shall exist in regard to all persons in such State who were in any way connected with armed opposition to the United States government, relieving them of all pains, penalties and disabilities to which they may have become liable by reason of their connection.

The last resolution declares that it is not intended to assert a coercive power on the part of Congress to regulate the right of sugrage in the States.

THE CASE OF SENATOR STOCKTON.

The case of Mr. Stockton was then taken up. The question was upon postponing further consideration until Thursday next.

Mr. STOCKTON, (dem.) of N. J., desired to make an explanation. He stated yesterday that the present President of the New Jersey Senate was elected by his own vote. This was a mistake; he was elected by exchanging his vote; getting a democrat to vote for him, while he voted for the democrat. He would also state that he had received a despatch from his colleague stating that he hoped the case would be postponed until Thursday, as he (Mr. Wright) would be here then or ask no further delay.

Mr. HENDRICKS, (dem.) of Ind., appealed to the Senate to postpone the subject until Thursday, to enable a full vote to be taken. This was the first postponement asked by Mr. Stockton's friends.

Mr. CLARK, (rep.) of N. H., was opposed to the postponement. There was no reason why Mr. Wright could not have been here to-day as well as on Thursday.

Mr. JOHNSON, (dem.) of Md., said Mr. Wright's physician had informed him that he (Mr. Wright) would sacrifice his life if he attempted to come last night, but that he could come on Wednesday night.

Mr. POMEROY, (rep.) of Kansas, had learned from a neighbor of Mr. Wright's that he (Mr. Wright) not only did not expect to be he here on Thursday, but never expected to be here.

Mr. HENDRICKS again appealed for a postponement. He was interrupted in his remarks by the arrival of the President's Private Secretary, at one P. M., who came to announce the return, with the President's objections, of the Civil Rights bill.

Mr. CONNESS, (rep.) of Cal., spoke against the postponement.

Mr. SUMNER said there was no assurance that there would be a fuller Senate on Thursday. Disease had made a pair between the Senator from Vermont (Mr. Foot) and the Senator from New Jersey (Mr. Wright). Let that suffice, and let this important question be decided at once.

Mr. SAULSBURY, (dem.) of Del., said he did not know of any objection to his holding his seat, so that (unless a change had occurred lately in his opinions) disease had made no pair in that case, and the Senator from Massachusetts was mistaken.

Mr. HENDRICKS said that Mr. Stockton would not vote on questions brought before the Senate until Thursday, if there was any objection raised on the other side.

Mr. CONNESS said this suggestion was entirely gratuitous on the part of Mr. Hendricks. It implied that the vote of Mr. Stockton was feared in a particular question. This was a mistake.

Mr. DAVIS, (dem.) of Ky., spoke briefly in favor of the postponement, after which the question was taken on the postponement until Thursday next, and decided in the negative, yeas, 18; nays, 23, as follows:—

YEAS—Messrs. Anthony, Buckalew, Cowan, Davis, Guthrie, Harris, Hendricks, Johnson, Lane of Kansas, McDougall, Morgan, Nesmith, Norton, Riddle, Saulsbury, Trumbull, Van Winkle, Willey—18.

NAYS—Messrs. Brown, Chandler, Clark, Conness, Cragin, Creswell, Fessenden, Foster, Grimes, Henderson, Howard, Howe, Kirkwood, Lane of Indiana, Nye, Pomeroy, Ramsey, Sherman, Sprague, Sumner, Wade, Wilson and Yates—23.

This brought the resolution declaring Mr. Stockton entitled to his seat again before the Senate.

Mr. CLARK moved to amend the resolution so as to make it read:—

Resolved, That John P. Stockton, not having received a majority of the voices of the Legislature of the State of New Jersey, present and voting, is not entitled to his seat as Senator from that State for the term of six years from the 4th of March, 1865.

Mr. SAULSBURY rose to a point of order. He wished to inquire if it was in order for Mr. Clark to offer an amendment in substance the same as was voted down on Friday. The exact question involved in Mr. Clark's amendment was voted down on Friday.

The CHAIR decided that the amendment of Mr. Clark was in order.

Mr. CLARK wished to modify his amendment by striking out of the above resolution the words "Not having received a majority of the voices of the Legislature of the State of New Jersey, present and voting."

The amendment of Mr. Clark simply declared that Mr. Stockton was not entitled to his seat. (Loud cries of "Question" were uttered in the republican side of the chamber.)

Mr. HOWARD addressed the Senate to show that Mr. Stockton was not entitled to his seat.

Mr. STOCKTON said he wished to make a few remarks before the vote was taken. He had examined the question of his right to a seat very carefully, and had taken the opinion of some of the best lawyers in the country. All who examined it concurred in the opinion since expressed by the Judiciary Committee that he was entitled to his seat. Mr. Stockton proceeded to read an elaborate printed argument in his own defence.

Mr. DAVIS, at the conclusion of Mr. Stockton's remarks, offered the following amendment, as a substitute for Mr. Clark's amendment:—

That the Legislature of New Jersey having convened in joint meeting to choose a Senator to the Congress of the United States for six years from the 4th of March, 1865, and said Legislature, in such joint meeting, having passed an order that such election should be made by a plurality vote of that joint meeting, and on the first ballot taken by such meeting John P. Stockton having received forty votes out of eighty-one votes of the members of both houses constituting such Legislature, in such joint meeting, and any other person voted for a less number, and the presiding officers of said joint meeting having then announced, to wit, that the said John P. Stockton was elected a Senator in Congress, and there being no dissent expressed to such communication, the said John P. Stockton was duly elected to the Senate of the United States from said State, and is entitled to hold his seat from the 4th of March, 1865.

Disagreed to—18 yeas, 27 nays.

The question was then taken upon Mr. Clark's amendment to the resolution of the Judiciary Committee, declaring Mr. Stockton not entitled to his seat. The amendment was adopted—yeas 22, nays 21, as follows:—

YEAS—Messrs. Brown, Chandler, Clark, Conness, Cragin, Creswell, Fessenden, Grimes, Howard, Howe, Kirkwood, Lane of Ind., Nye, Pomeroy, Ramsay, Sherman, Sprague, Sumner, Wade, Williams, Wilson and Yates—22.

NAYS—Messrs. Anthony, Buckalew, Cowan, Davis, Doolittle, Guthrie, Harris, Henderson, Hendricks, Johnson, Lane of Kansas, McDougall, Morgan, Nesmith, Norton, Poland, Riddle, Saulsbury, Trumbull, Van Winkle and Willey—21.

ABSENT OR NOT VOTING—Messrs. Dixon, Foot, Foster (paired), Morrill (paired), Stewart, Stockton and Wright—7.

The question then occurred on the adoption of the resolution. The yeas and nays were demanded, and the resolution as amended, declaring that John P. Stockton is not entitled to his seat, was adopted. The original vote was identical with the one recorded above.

Mr. RIDDLE, (dem.) of Del., asked leave to change his vote. This made the vote yeas 23, nays 20.

Mr. CLARK said it was evident Mr. Riddle had changed his vote for the purpose of moving a reconsideration to-morrow or next day. He (Mr. Clark) would therefore move a reconsideration for the purpose of testing the matter now.

Mr. HENDRICKS moved to postpone further consideration of the subject until to-morrow.

Mr. TRUMBULL, (rep.) of Ill., said he had voted steadily for retaining Mr. Stockton in his seat; but he was opposed to all dilatory motions, and he would vote against them.

Mr. SHERMAN said he had voted against Mr. Stockton's right to his seat, but he had also voted for every motion to postpone which gave promise for a fairer trial of the case. He would vote against all motions for delaying the business of the Senate.

Mr. JOHNSON spoke at some length in favor of postponement, and appealed to the magnanimity of the Senate to give Mr. Wright an opportunity to get here. There was good reason to believe that Mr. Wright would be here to-morrow.

Mr. DOOLITTLE said he had received a message from Mr. Dixon stating that he (Mr. Dixon) hoped the Senate would postpone the subject for a few days, until he was able to be present.

The Senate, by a vote of yeas 21, nays 22, refused to postpone the subject until to-morrow.

The question on reconsidering the vote by which the resolution was adopted was then taken, and the Senate refused to reconsider. Yeas 20, nays 22.

Mr. WADE, (rep.) of Ohio, moved that the Senate adjourn; which was lost.

Mr. TRUMBULL moved that the Senate proceed to the consideration of the President's veto message.

Mr. HOWARD moved that the Senate adjourn. Lost.

The President's veto message was then read by John W. Forney, Secretary of the Senate, as follows:—

THE VETO.

TO THE SENATE OF THE UNITED STATES:—

I regret that the bill, which has passed both house of Congress, entitled "An act to protect all persons in the United States in their civil rights and furnish the means of their vindication," contains provisions which I cannot approve consistently with my sense of duty to the whole people and my obligations to the constitution of the United States. I am, therefore, constrained to return it to the Senate (the House in which it originated) with my objections to its becoming a law.

By the first section of the bill all persons born in the United States and not subject to any foreign Power, excluding Indians not taxed, are declared to be citizens of the United States. This provision comprehends the Chinese of the Pacific States, Indians subject to taxation, the people called Gypsies, as well as the entire race designated as blacks, people of color, negroes, mulattoes and persons of African blood. Every individual of these races born in the United States is by the bill made a citizen of the United States. It does not purport to declare or confer any other right of citizenship than federal citizenship; it does not propose to give these classes of persons any status as citizens of States, except that which may result from their status as citizens of the United States. The power to confer the right of State citizenship is just as exclusively with the several States as the power to confer the right of federal citizenship is with Congress. The right of federal citizenship thus to be conferred in the several excepted ratios before mentioned is now for the first time proposed to be given by law. If, as is claimed by many, all persons who are native born already are, by virtue of the constitution, citizens of the United States—the passage of the pending bill cannot be necessary to make them such. If, on the other hand, such persons are not citizens, as may be assumed from the proposed legislation to make them such, the grave question presents itself, whether, where eleven of the thirty-six States are unrepresented in Congress at this time, it is sound policy to make our entire colored population and all other excepted classes citizens of the United States. Four million of them have just merged from slavery into freedom. Can it be reasonably supposed that they possess the requisite qualifications to entitle them to all the privileges and immunities of citizenship of the United States? Have the people of the several States expressed such a conviction? It may also be asked whether it is necessary that they should be declared citizens in order that they may be secured in the enjoyment of the civil rights proposed to be conferred by the bill? Those rights are, by federal as well as by State laws, secured to all domiciled aliens and foreigners, even before the completion of the process of naturalization; and it may safely be assumed that the same enactments are sufficient to give like protection and benefits to those for whom this bill provides special legislation. Besides, the policy of the government, from its origin to the present time, seems to have been that persons who are strangers to, and unfamiliar with, our institutions and our laws should pass through a certain probation, at the end of which, before attaining the coveted prize, they must give evidence of their fitness to receive and to exercise the rights of citizens as contemplated by the constitution of the United States. The bill in effect proposes a discrimination against large numbers of intelligent, worthy and patriotic foreigners, and in favor of the negro, to whom after long years of bondage the avenues to freedom and intelligence have just now been suddenly opened. He must of necessity, from his previous unfortunate condition of servitude, be less informed as to the nature and character of our institutions than he who coming from abroad, has, to some extent, at least, familiarized himself with the principles of a government to which he voluntarily entrusts life, liberty and the pursuit of happiness. Yet it is now proposed, by a single legislative enactment to confer the rights of citizens upon all persons of African descent, born within the extended limits of the United States, while persons of foreign birth, who make our land their home, must undergo a probation of five years, and can only then become citizens upon proof that they are of good moral character, attached to the principles of the constitution of the United States, and well disposed to the good order and happiness of the same. The first section of the bill also contains an enumeration of the rights to be enjoyed by those classes so made citizens in every State and Territory in the United States. These rights are:—To make and enforce contracts, to sue, be parties and give evidence in court, to inherit, purchase, lease, sell, hold and convey real and personal property, and to have full and equal benefit of all laws and proceedings for the security of persons and property as are enjoyed by white citizens; so, too, they are made subject to the same punishment, pains and penalties, in common with white citizens, and to none others. Thus, a perfect equality of the white and colored races is attempted to be fixed by federal law in every State of this Union, over the vast field of State jurisdiction covered by these enumerated rights. In no one of them can any State exercise any power of discrimination between different races. In the exercise of State policy over matters exclusively affecting the people of each State, it has frequently been thought expedient to discriminate between the two races. By the statutes of some of the States, North as well as South, it is enacted, for instance, that no white person shall intermarry with a negro or mulatto. Chancellor Kent says, speaking of the blacks, that marriages between them and the whites are forbidden in some of the States where slavery does not exist, and they are prohibited in all the slaveholding States by law, and where not absolutely contrary to law they are revolting and regarded as an offence against public decorum.

I do not say that this bill repeals State laws on the subject of marriage between the two races; for, as the whites are forbidden to intermarry with the blacks, the blacks can only make such contracts as the whites themselves are allowed to make, and, therefore, cannot under this bill enter into the marriage contract with the whites. I cite this discrimination, however, as an instance of the State policy as to discrimination, and to inquire whether, if Congress can abrogate all State laws of discrimination between the two races, in the matter of real estate, of suits, and of contracts generally, Congress may not also repeal the State laws as to the contract of marriage between the races. Hitherto every subject embraced in the enumeration of rights contained in the bill has been considered as exclusively belonging to the States. They all relate to the internal policy and economy of the respective States. They are matters which, in each State, concern the domestic condition of its people, varying in each according to its own peculiar circumstances and the safety and well-being of its own citizens. I do not mean to say that upon all these subjects there are not federal restraints, as, for instance, in the State power of legislation over contracts there is a federal limitation that no State shall pass a law impairing the obligations of contracts; and, as to crimes, that no State shall pass an *ex post facto* law; and, as to money, that no State shall make anything but gold and silver a legal tender. But where can we find a federal prohibition against the power of any State to discriminate, as do most of them, between aliens and citizens, between artificial persons called corporations and naturalized persons, in the right to hold real estate. If it be granted that Congress can repeal all State laws discriminating between whites and blacks in the subjects covered by this bill, why, it may be asked, may not Congress repeal in the same way all State laws discriminating between the two races on the subjects of suffrage and office. If Congress can declare by law who shall hold lands, who shall testify, who shall have capacity to make a contract in a State, then Congress can also by law declare who, without regard to race or color, shall have the right to sit as a juror or as a judge, to hold any office, and, finally, to vote, in every State and Territory of the United States. As respects the Territories, they come within the power of Congress, for as to them the lawmaking power is the federal power; but as to the States no similar provision exists vesting in Congress the power to make rules and regulations for them.

The object of the second section of the bill is to afford discriminating protection to colored persons in the full enjoyment of all the rights secured to them by the preceding section. It declares that any person who, under color of any law, statute, ordinance, regulation or custom, shall subject or cause to be subjected any inhabitant of any State or Territory to the deprivation of any right secured or protected by this act, or to different punishment, pains or penalties on account of such person having at any time been held in a condition of slavery or involuntary servitude, except as a punishment of crime, whereof the party shall have been duly convicted, or by reason of his color or race, than is prescribed for the punishment of white persons, shall be deemed guilty of a misdemeanor, and on conviction shall be punished by fine not exceeding one thousand dollars, or imprisonment not exceeding one year, or both, in the discretion of the court. This section seems to be designed to apply to some existing or future law of a State or Territory which may conflict with the provisions of the bill now under consideration. It provides for counteracting such forbidden legislation by imposing fine and imprisonment upon the legislators who may pass such conflicting laws, or upon the officers or agents who shall put, or attempt to put, them into execution. It means an official offence, not a common crime committed against law upon the person or property of the black race. Such an act may deprive the black man of his property, but not of his right to hold property. It means a deprivation of the right itself either by the State Judiciary or by the State Legislature. It is therefore assumed that under this section members of a State Legislature who should vote for laws conflicting with the provisions of the bill, that judges of the State courts who should render judgments in antagonism with its terms, and that marshals and sheriffs who should, as ministerial officers, execute processes sanctioned by State laws and issued by State judges in execution of their judgments, could be brought before other tribunals, and there subjected to fine and imprisonment for the performance of the duties which such State laws might impose. The legislation thus proposed invades the judicial power of the State. It says to every State court or judge—If you decide that this act is unconstitutional; if you refuse under the prohibition of a State law to allow a negro to testify; if you hold that over such a subject matter the said law is paramount, and under color of a State law refuse the exercise of the right to the negro, your error of judgment, however conscientious, shall subject you to fine and imprisonment. I do not apprehend that the conflicting legislation which the bill seems to contemplate is so likely to occur as to render it necessary at this time to adopt a measure of such doubtful constitutionality. In the next place, this provision of the bill seems to be unnecessary, as adequate judicial remedies could be adopted to secure the desired end without invading the immunities of legislators, always important to be preserved in the interest of public liberty, without assailing the independence of the judiciary, always essential to the preservation of individual rights and without impairing the efficiency of ministerial officers, always necessary for the maintenance of public peace and order. The remedy proposed by this section seems to be in this respect not only anomalous but unconstitutional; for the constitution guarantees nothing with certainty if it does not insure to the several States the right of making index ruling laws in regard to all matters arising within their jurisdiction, subject only to the restriction, in cases of conflict with the constitution and constitutional laws of the United States, the latter to be held as the supreme law of the land. The third section gives the district courts of the United States exclusive cognizance of all crimes and offences committed against the provisions of this act, and concurrent jurisdiction with the circuit courts of the United States of all civil, and criminal cases affecting persons who are denied, or cannot enforce in the courts, or judicial tribunals of the State or locality where they may be, any of the rights secured to them by the first section. The construction which I have given to the second section is strengthened by this third section; for it makes clear what kind of denial or deprivation of rights secured by the first section was in contemplation. It is a denial or deprivation of such rights in the courts or judicial tribunals of the State. It stands therefore clear of doubt that the offence and the penalties provided in the second section are intended for the State judge, who, in the clear exercise of his functions as a judge, not acting ministerially, but judicially, shall decide contrary to this federal law. In other words, when a State judge, acting upon a question involving a conflict between a State law and federal law, and bound, according to his own judgment and responsibility, to give an impartial decision between the two, comes to the conclusion that the State law is valid and the federal law is invalid, he must not follow the dictates of his own judgment at the peril of fine and imprisonment. The legislative department of the government of the United States thus takes from the judicial department of the States the sacred and exclusive duty of judicial decision, and converts the State judge into a mere ministerial officer, bound to decide according to the will of Congress. It is clear that in States which deny to persons whose rights are secured by the first section of the bill any of those rights, all civil and criminal cases affecting them will, by the provisions of the third section, come under the executive cognizance of the federal tribunals. It follows that if, in any State which denies to a colored person any one of all those rights, that person should commit a crime against the laws of a State—murder, arson, rape, or any other crime—all protection and punishment through the courts of the State are taken away, and he can only be tried and punished in the federal courts. How is the criminal to be tried if the offence is provided for and punished by federal law? That law, and not the State law, is to govern. It is only when the offence does not happen to be within the purview of federal law that the federal courts are to try and punish him under any other law. Then resort is to be had to the common law, as modified and changed by State legislation, so far as the same is not inconsistent with the constitution and laws of the United States. So that over this vast domain of criminal jurisprudence, provided by each State for the protection of its own citizens and for the punishment of all persons who violate its criminal laws, federal law, wherever it can be made to apply, displaces State law. The question here naturally arises from what source Congress derives its powers to transfer to federal tribunals certain classes of cases embraced in this section. The constitution expressly declares that the judicial power of the United States "shall extend to all cases in law and equity arising under this constitution, the laws of the United States, and treaties made or which shall be made under their authority; to all cases affecting ambassadors or other public ministers and consuls; to all cases of admiralty and maritime jurisdiction; to controversies to which the United States shall be a party; to controversies between two State; between citizens of different States; between citizens of the same State, claiming land under grants or more States, between a Stateand citizens of another of different States, and between a state or the citizens thereof and foreign States, citizens or subjects." Here the judicial power of the United States is expressly set forth and defined; and the act of September 24, 1789, establishing the judicial courts of the United States, in conferring upon the federal courts jurisdiction over cases originating in State tribunals, is careful to confine them to the classes enumerated in the above recited clause of the constitution. This section of the bill undoubtedly comprehends cases and authorizes the exercise of powers that are not, by the constitution, within the jurisdiction of the courts of the United States. To transfer them to those courts would be an exercise of authority well calculated to excite distrust and alarm on the part of all the States; for the bill applies alike to all of them, as well to those that have as to those that have not been engaged in rebellion.

It may be assumed that this authority is incident to the power granted to Congress by the constitution, as recently amended, to enforce by appropriate legislation the article declaring that neither slavery nor involuntary servitude, except as a punishment for crime, whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction. It cannot, however, be justly claimed that, with a view to the enforcement of this article of the constitution, there is at present any necessity for the exercise of all the powers which this bill confers. Slavery has been abolished, and at present nowhere exists, within the jurisdiction of the United States, nor has there been, nor is it likely there will be, any attempts to revive it by the people of any State. If, however, any such attempt shall be made, it will then become the duty of the general government to exercise any and all incidental powers necessary and proper to maintain inviolate this great law of freedom. The fourth section of the bill provides that officers and agents of the Freedmen's Bureau shall be empowered to make arrests, and also that other officers may be specially commissioned for that purpose by the President of the United States. It also authorizes Circuit Courts of the United States and the Superior Courts of the territories to appoint, without limitation, commissioners who are to be charged with the performance of quasi judicial duties. The fifth section empowers the commissioners so to be selected by the court to appoint in writing one or more suitable persons, from time to time, to execute warrants and other processes desirable by the bill. These numerous official agents are made to constitute a sort of police, in addition to the military, and are authorized to summon a *posse comitatus*, and even to call to their aid such portion of the land and naval forces of the United States, or of the militia, "as may be necessary to the performance of the duty with which they are charged." This extraordinary power is to be conferred upon agents irresponsible to the government and to the people, to whose number the discretion of the commissioners is the only limit, and in whose hands such authority might be made a terrible engine of wrong, oppression and fraud. The general statutes regulating the land and naval forces of the United States, the militia and the execution of the laws, are believed to be adequate for any emergency which can occur in time of peace. If it should prove otherwise Congress can at any time amend those laws in such manner as, while subserving the public welfare, not to jeopard the rights, interests and liberties of the people.

The seventh section provides that a fee of ten dollars shall be paid to each commissioner in every case brought before him, and a fee of five dollars to his deputy or deputies for each person he or they may arrest and take before any such commissioner, with such other fees as may be deemed reasonable by such commissioner in general for performing such other duties as may be required in the premises. All these fees are to be paid out of the Treasury of the United States, whether there is a conviction or not; but in case of conviction they are to be recoverable from the defendant. It seems to me that under the influence of such temptations bad men might convert any law, however beneficent, into an instrument of persecution and fraud. By the eighth section of the bill the United States courts, which sit only in one place for white citizens, must migrate with the marshal and district attorney, and necessarily with the clerk (although he is not mentioned) to any part of the district upon the order of the President, and there hold a court for the purpose of the more speedy arrest and trial of persons charged with a violation of this act, and there the judge and officers of the court must remain upon the order of the President for the time therein designated.

The ninth section authorizes the President, or such person as he may empower for that purpose, to employ such part of the land or naval forces of the United States, or of the militia, as shall be necessary to prevent the violation and enforce the due execution of this act. This language seems to imply a permanent military force that is to be always at hand, and whose only business is to be the enforcement of this measure over the vast region where it is intended to operate.

I do not propose to consider the policy of this bill. To me the details of the bill are fraught with evil. The white race and black race of the South have hitherto lived together under the relation of master and slave—capital owning labor. Now that relation is changed, and as to ownership capital and labor are divorced. They stand now, each master of itself. In this new relation, one being necessary to the other, there will be a new adjustment, which both are deeply interested in making harmonious. Each has equal power in settling the terms, and, if left to the laws that regulate capital and labor, it is confidently believed that they will satisfactorily work out the problem. Capital, it is true, has more intelligence; but labor is never so ignorant as not to understand its own interests, not to know its own value, and not to see that capital must pay that value. This bill frustrates this adjustment. It intervenes between capital and labor, and attempts to settle questions of political economy through the agency of numerous officials, whose interest it will be to foment discord between the two races; for as the breach widens their employment will continue, and when it is closed their occupation will terminate. In all our history, in all our experience as a people living under federal and State laws, no such system as that contemplated by the details of this bill has ever before been proposed or adopted. They establish for the security of the colored race safeguards which go infinitely beyond any that the general government has ever provided for the white race. In fact, the distinction of race and color is by the bill made to operate in favor of the colored and against the white race. They interfere with the municipal legislation of the States; with relations existing exclusively between a State and its citizens, or between inhabitants of the same State—an absorption and assumption of power by the general government which, if acquiesced in, must sap and destroy our federative system of limited powers and break down the barriers which preserve the rights of the States. It is another step, or rather stride, towards centralization, and the concentration of all legislative powers in the national government. The tendency of the bill must be to resuscitate the spirit of rebellion and to arrest the progress of those influences which are more closely drawing around the States the bonds of union and peace.

My lamented predecessor, in his proclamation of the 1st of January, 1863, ordered and declared that all persons held as slaves within certain States and parts of States, therein designated, were and thenceforth should be free; and further, that the executive government of the United States, including the military and naval authorities thereof, would recognize and maintain the freedom of such persons. This guarantee has been rendered especially obligatory and sacred by the amendment of the constitution abolishing slavery throughout the United States. I therefore fully recognize the obligation to protect and defend that class of our people whenever and wherever it shall become necessary, and to the full extent compatible with the constitution of the United States. Entertaining these sentiments, it only remains for me to say that I will cheerfully co-operate with Congress in any measure that may be necessary for the preservation of the civil rights of the freedmen, as well as those of all other classes of persons throughout the United States, by judicial process, under equal and impartial laws, or conformably with the provisions of the federal constitution.

I now return the bill to the Senate, and regret that in considering the bills and joint resolutions, forty-two in number, which have been thus far submitted for my approval, I am compelled to withhold my assent from a second measure that has received the sanction of both houses of Congress. ANDREW JOHNSON.

WASHINGTON, March 27, 1866.

At the conclusion of the reading, Mr. COWAN moved that the message be printed. He also moved that the Senate adjourn.

Mr. SUMNER demanded the yeas and nays, which were ordered.

The Senate refused to adjourn by the following vote:—

YEAS—Messrs. Buckalew, Cowan, Davis, Doolittle, Guthrie, Hendricks, Johnson, McDougall, Morgan, Nesmith, Norton, Riddle, Saulsbury and Van Winkle—14.

NAYS—Messrs. Anthony, Brown, Chandler, Clark, Conness, Cragin, Creswell, Fessenden, Foster, Harris, Henderson, Howard, Howe, Lane of Kansas, Lane of Indiana, Nye, Poland, Pomeroy, Ramsay, Sprague, Stewart, Sumner, Trumbull, Wade, Willey, Williams, Wilson and Yates—28.

Mr. TRUMBULL said he desired to make some remarks on the subject, but would rather not proceed with them until to-morrow.

The Senate then, on motion of Mr. HENDRICKS, adjourned.

HOUSE OF REPRESENTATIVES.

WASHINGTON, March 27, 1866.

EXCUSED FROM THE AIR LINE COMMITTEE.

Mr. GRINNELL, (rep.) of Iowa, asked to be excused from further service on the Select Committee on the Military and Postal Railroad from Washington to New York.

Mr. ANCONA, (dem.) of Pa., asked the Speaker whether it was in order to inquire on which side the gentleman was.

The SPEAKER intimated that it was not.

Mr. GRINNELL replied that he was on the honest side.

Mr. Grinnell was excused.

Mr. SLOAN, (rep.) of Wis., was appointed in his place.

DUTIES ON STEAM AGRICULTURAL IMPLEMENTS.

Mr. WENTWORTH, (rep.) of Ill., from the Committee on Ways and Means, reported, by unanimous consent, a bill for the admission, free of duty, of steam agricultural implements and machinery, for the manufacture of flax and beet sugar, for the period of one year.

Mr. STEVENS, (rep.) of Pa., moved to lay the bill on the table.

Mr. WENTWORTH appealed to Mr. Stevens to let the bill be recommitted.

Mr. STEVENS consented to that, but Mr. McKee objected and the bill was laid on the table.

SUBMARINE TELEGRAPH.

Mr. SPALDING, (rep.) of Ohio, introduced a bill to grant

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